

BAY CITIES PAVING & GRADING INC.

Bus: 1450 Civic Court, Bldg. B Suite #400, Concord, CA 94520
(925) 687-6666
Fax (925) 687-2122

Mall: Post Office Box 6227, Concord, CA 94524-6227

July 24, 2014

FAXED

Department of Transportation, MS 43
Attn: John McMillan, Deputy Division Chief
1727 30th Street
Sacramento, CA 95816

Project: 04-152724
Bid Opening: 07/08/14
Re: Response to 2nd Protest Letter of O.C. Jones & Sons, Inc.

Dear Mr. McMillan,

On July 22, 2014, O. C. Jones & Sons, Inc. ("OCJ") submitted a second protest of Bay Cities' bid. The points raised in OCJ's second protest supports Bay Cities' position that a clerical error was made. OCJ noted that it and A. Teichert & Sons' did not list Items No. 31-36 [such as ADL Burial Location Report (Item No. 31), Noise Monitoring (Item No. 33), etc.] as part of their striping subcontractor's work. Aside from Bay Cities, none of the other six bidders listed Items No. 31-36 as work to be performed by striping subcontractors. The fact that Items No. 31-36 do not relate in any fashion to striping work supports Bay Cities' position that a hyphen was misplaced.

OCJ's second protest adds a new argument that Bay Cities erred by omitting Mobilization (Item No. 155) when listing Central Striping's work. There is no merit to this argument. All of the seven bidders listed either Central Striping or Chrisp Company for the striping work. Of the seven, only 3 included a listing of mobilization for the striping subcontractor even though both Central and Chrisp's quotes included mobilization. Caltrans recent decisions make it clear that there is no requirement to include mobilization when listing a subcontractor's work. For example, for Contract 07-1218W4, Caltrans stated "Mobilization is a component of all bid items" so it need not be listed as a separate item of work. For Contract 04-1G5504, Dreambuilder protested Coral's addition of Mobilization for a subcontractor's listed work. In rejecting this protest, Caltrans wrote that the revision does not qualify as a change since "Mobilization is not a subcontractable item." For Contract 04-2A2504, Granite Rock protested Bay Cities's bid because mobilization was added (in the 24-Hour Listing) to a subcontractor's listed work. In rejecting Granite Rock's protest, Caltrans wrote:

"Mobilization is relative to the scope of work being performed by these subcontractors as they must first mobilize onto the Project site in order to complete their work, and mobilization, by itself, is not considered work requiring a contractor's license."

Contrary to OCJ's claim of error, Bidders are not required to list mobilization for each subcontractor's scope of work.

John McMillan
July 24, 2014
Page 2

OCJ's also claims that Bay Cities made an error by not listing MBI for all the items that MBI quoted. This is an absurd argument. Public Contract Code § 4106 provides that if a bidder does not list a subcontractor for an item of work, that bidder agrees that he is fully qualified to perform that item of work and will perform that item of work. Caltrans has never required bidders to list subcontractors for every item that a subcontractor bids.

OCJ's argument boils down to this: Bay Cities' listing cannot simply be a matter of misplacing a hyphen. Of the seven bidders, 3 provided general descriptions for striping and markings for the striping work. Aside from Bay Cities, 4 bidders (OCJ, Teichert, Ghilotti Construction, and Ghilotti Bros/Columbia Electrical) provided item numbers for the Striping work. For this work, all listed the striping work to include:

30, 37-39

Bay Cities listed:

30-37, 39

OCJ's argument that this is anything other than a misplaced hyphen is ridiculous. If one followed OCJ's argument, then Bay Cities was seeking to gain an advantage over other bidders by having Central Striping perform work such as ADL Burial Location Report (Item No. 31), Noise Monitoring (Item No. 33) or Remove Guardrail (Item No. 34). Noise Monitoring and ADL Burial Location Report are not even items of work requiring a contractor's license which is why none of the bidders listed this work as being subcontracted. A bidder would only list a striping subcontractor to perform these items of work if he was seeking to gain a disadvantage when bidding. While OCJ wishes to prove some type of conspiracy about a misplaced hyphen, it is plain and clear that Bay Cities intended to list Central Striping for "30, 37-39" like every other bidder. OC Jones would obviously like Caltrans to award the Contract to OCJ for the increased price of \$671,000 but the public interest is best served by waiving this clerical error and awarding the Contract to Bay Cities.

Sincerely,



Marlo Manqueros
Vice-President

cc: File